

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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PEDRO LUGO,

Plaintiffs,

07 CIV. 8322

Judge Karas

- against -

CHESTNUT RIDGE TRANSIT, INC.,

**ANSWER TO  
COMPLAINT**

Defendant.

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Defendant, CHESTNUT RIDGE TRANSPORTATION, INC., by its attorneys,  
ALAN B. PEARL & ASSOCIATES, P.C., as and for their Answer to the Plaintiff's  
Complaint, set forth as follows:

1. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "1" of the Plaintiff's Complaint.
2. Defendant admits that Chestnut Ridge Transit, Inc. is a corporation organized under the laws of the State of New York and denies the remaining allegations in Paragraph "2".
3. Defendant denies each and every allegation contained in paragraph "3" of the Plaintiff's Complaint.
4. Defendant admits the allegations contained in paragraph "4" of the Plaintiff's Complaint.
5. Defendant admits the allegations contained in paragraph "5" of the Plaintiff's Complaint.
6. This paragraph contains no factual statement or legal conclusion and therefore does not require a response.

7. Defendant admits that Plaintiff was hired by Defendant, Chestnut Ridge Transportation, Inc.
8. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "8" of the Plaintiff's Complaint.
9. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "9" of the Plaintiff's Complaint.
10. Defendant denies each and every allegation contained in paragraph "10" of the Plaintiff's Complaint.
11. Defendant denies each and every allegation contained in paragraph "11" of the Plaintiff's Complaint.
12. Defendant denies each and every allegation contained in paragraph "12" of the Plaintiff's Complaint.
13. Defendant denies each and every allegation contained in paragraph "13" of the Plaintiff's Complaint.
14. Defendant denies each and every allegation contained in paragraph "14" of the Plaintiff's Complaint.
15. Defendant denies each and every allegation contained in paragraph "15" of the Plaintiff's Complaint.
16. Defendant denies each and every allegation contained in paragraph "16" of the Plaintiff's Complaint.
17. Defendant admits the allegations contained in paragraph "17" of the Complaint.
18. Defendant denies each and every allegation contained in paragraph "18" of the Plaintiff's Complaint.

19. Defendant denies each and every allegation contained in paragraph "19" of the Plaintiff's Complaint.
20. Defendant denies each and every allegation contained in paragraph "20" of the Plaintiff's Complaint.
21. Defendant denies each and every allegation contained in paragraph "21" of the Plaintiff's Complaint.
22. Defendant denies each and every allegation contained in paragraph "22" of the Plaintiff's Complaint.
23. Defendant denies each and every allegation contained in paragraph "23" except admits use of a specific interest form.
24. Defendant denies each and every allegation contained in paragraph "24" except admits use of a specific interest form.
25. Defendant denies each and every allegation contained in paragraph "25" of the Plaintiff's Complaint.
26. Defendant denies each and every allegation contained in paragraph "26" of the Plaintiff's Complaint.
27. Defendant denies each and every allegation contained in paragraph "27" of the Plaintiff's Complaint.
28. Defendant denies each and every allegation contained in paragraph "28" of the Plaintiff's Complaint.
29. Defendant denies each and every allegation contained in paragraph "29" of the Plaintiff's Complaint.
30. Defendant denies each and every allegation contained in paragraph "30" of the Plaintiff's Complaint.

31. Defendant denies each and every allegation contained in paragraph "31" of the Plaintiff's Complaint.
32. Defendant denies each and every allegation contained in paragraph "32" of the Plaintiff's Complaint.
33. Defendant denies each and every allegation contained in paragraph "33" of the Plaintiff's Complaint.
34. Defendant denies each and every allegation contained in paragraph "34" of the Plaintiff's Complaint.
35. Defendant denies each and every allegation contained in paragraph "35" of the Plaintiff's Complaint.
36. Defendant denies each and every allegation contained in paragraph "36" of the Plaintiff's Complaint.
37. Defendant denies each and every allegation contained in paragraph "37" of the Plaintiff's Complaint.
38. Defendant denies each and every allegation contained in paragraph "38" of the Plaintiff's Complaint.
39. Defendant denies each and every allegation contained in paragraph "39" of the Plaintiff's Complaint.
40. Defendant denies each and every allegation contained in paragraph "40" of the Plaintiff's Complaint.
41. Defendant denies each and every allegation contained in paragraph "41" of the Plaintiff's Complaint.
42. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "42" of the Plaintiff's Complaint.

**FIRST CLAIM FOR RELIEF – RACIAL DISCRIMINATION  
IN VIOLATION OF THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C.A. §2000E**

43. Defendant repeats, reiterates and realleges each and every answer to the allegations contained in paragraphs “1” through “42” with the same force and effect as if set forth at length herein.
44. Defendant denies each and every allegation contained in paragraph “44” of the Plaintiff’s Complaint.
45. Defendant denies each and every allegation contained in paragraph “45” of the Plaintiff’s Complaint.
46. Defendant denies each and every allegation contained in paragraph “46” of the Plaintiff’s Complaint.
47. Defendant denies each and every allegation contained in paragraph “47” of the Plaintiff’s Complaint.
48. Defendant denies each and every allegation contained in paragraph “48” of the Plaintiff’s Complaint.

**SECOND CLAIM FOR RELIEF FOR RACIAL DISCRIMINATION IN  
ADMINISTERING ITS EMPLOYMENT CONTRACT, IN VIOLATION OF THE  
CIVIL RIGHTS ACT OF 1866, 42 U.S.C. §1981**

49. Defendant repeats, reiterates and realleges each and every answer to the allegations contained in paragraphs “1” through “48” with the same force and effect as if set forth at length herein.
50. Defendant denies each and every allegation contained in paragraph “50” of the Plaintiff’s Complaint.

51. Defendant denies each and every allegation contained in paragraph "51" of the Plaintiff's Complaint.

**SIXTH CLAIM FOR RELIEF – AGE DISCRIMINATION IN VIOLATION OF ADEA**

52. Defendant repeats, reiterates and realleges each and every answer to the allegations contained in paragraphs "1" through "51" with the same force and effect as if set forth at length herein.

53. Defendant denies each and every allegation contained in paragraph "53" of the Plaintiff's Complaint.

54. Defendant denies each and every allegation contained in paragraph "54" of the Plaintiff's Complaint.

**THIRD CLAIM FOR RELIEF FOR VIOLATION OF THE FAIR STANDARDS ACT OF 1938, 29 U.S.C.A.S. 207(A)(1)**

55. Defendant repeats, reiterates and realleges each and every answer to the allegations contained in paragraphs "1" through "54" with the same force and effect as if set forth at length herein.

56. Defendant denies each and every allegation contained in paragraph "56" of the Plaintiff's Complaint.

57. Defendant denies each and every allegation contained in paragraph "57" of the Plaintiff's Complaint.

58. Defendant denies each and every allegation contained in paragraph "58" of the Plaintiff's Complaint.

59. Defendant denies each and every allegation contained in paragraph "59" of the Plaintiff's Complaint.

**FOURTH CLAIM FOR RELIEF – BREACH OF CONTRACT**

60. Defendant repeats, reiterates and realleges each and every answer to the allegations contained in paragraphs "1" through "59" with the same force and effect as if set forth at length herein.

61. Defendant denies each and every allegation contained in paragraph "61" of the Plaintiff's Complaint.

**FIFTH CLAIM FOR RELIEF –DISCRIMINATION IN VIOLATION OF N.Y.S. HUMAN RIGHTS LAW**

62. Defendant repeats, reiterates and realleges each and every answer to the allegations contained in paragraphs "1" through "61" with the same force and effect as if set forth at length herein.

63. Defendant denies each and every allegation contained in paragraph "63" of the Plaintiff's Complaint.

64. Defendant denies each and every allegation contained in paragraph "64" of the Plaintiff's Complaint.

**SIXTH CLAIM FOR RELIEF—INTENTIONAL DEPRIVATION OF CIVIL RIGHTS**

65. Defendant repeats, reiterates and realleges each and every answer to the allegations contained in paragraphs “1” through “64” with the same force and effect as if set forth at length herein.
66. Defendant denies each and every allegation contained in paragraph “66” of the Plaintiff’s Complaint.
67. Defendant denies each and every allegation contained in paragraph “67” of the Plaintiff’s Complaint.
68. Defendant denies each and every allegation contained in paragraph “68” of the Plaintiff’s Complaint.

**SEVENTH CLAIM FOR RELIEF – AGE DISCRIMINATION IN VIOLATION OF ADEA**

69. Defendant repeats, reiterates and realleges each and every answer to the allegations contained in paragraphs “1” through “68” with the same force and effect as if set forth at length herein.
70. Defendant denies each and every allegation contained in paragraph “70” of the Plaintiff’s Complaint.
71. Defendant denies each and every allegation contained in paragraph “71” of the Plaintiff’s Complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

72. Plaintiff fails to state a claim upon which relief may be granted.



**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

73. Plaintiff's claims are barred in whole or in part by the applicable statutes of limitations.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

74. Plaintiff's claims are barred in whole or in part by the doctrines of waiver, laches and/or collateral estoppel.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

75. Plaintiff's claimed are barred in whole or in part because he failed to exhaust his administrative remedies, by failing to file a charge, as required by law.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

76. Plaintiff's state law claims are barred in whole or in part by the doctrine of election of remedies.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

77. Plaintiff's claims are barred in whole or in part because he engaged in culpable conduct.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

78. Plaintiff's claims are barred in whole or in part because he made false representations to the New York State Unemployment Insurance Appeal Board.

**AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE**

79. Plaintiff's claims are barred in whole or in part because an administrative agency (New York State Department of Labor) rendered a final determination assessing his penalty for his representation.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

80. Plaintiff's claims are barred in whole or in part because he failed to arbitrate his claims as required under the Collective Bargaining Agreement.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE**

81. To the extent the claims involve the interpretation or enforcement of a Collective Bargaining Agreement, those claims are pre-empted by Section 301 of the National Labor Relations Act.

**AS AND FOR A ELEVENTH AFFIRMATIVE DEFENSE**

82. Plaintiff's claims are barred in whole or in part, as Plaintiff is a bus driver and subject to the Federal Motor Carrier Act regulations and exempt from the overtime requirements under the Fair Labor Standards Act.

**AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE**

83. At all times Defendant acted for lawful and legitimate non-discriminatory business and economic reasons.

WHEREFORE, Defendant demands judgment dismissing the Plaintiff's Complaint, together with the costs and disbursements of this action.

Dated: Syosset, New York  
October 16, 2007

ALAN B. PEARL & ASSOCIATES, P.C.

By: 

JOHN K. DIVINEY (JKD- 6836)

*Attorneys for Defendant*

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